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EXAMINER

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/024,352
Filing Date: December 21, 2001
Appellant(s): PEYRELEVADE ET AL.

Anthony M. Gutowski
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 5/5/08 appealing from the Office action mailed 8/9/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct. However, while the brief may technically be accurate and comply with the requirement, applicant could have made the record much more clear as to where the support in the specification for the claimed subject is located.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,913,210	Call	6-1999
6,141,666	Tobin	10-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17-18, 25-27 and 34, 36, 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Call.

Call shows, figure 1, methods and apparatus for disseminating product information via the Internet. The product code translator 101 is the common module, which is used by and available for the manufacturers' Internet sites (supplier's web site, see column 1, line 64) and online resellers (reseller's website, column 1, line 57). There is a registration handler process, which allows access to the product translator. One method is user certificates (with related address). Similar password, certificate or digital signature protection schemes may be used to provide access to certain data (sets of information) or to data in certain forms only to authorized requesters (sets of related addresses). Online supplier and resellers inherently have payment engine functions. Since they are both selling the products in the product translator, they still use the information in the translator. Inherently, manufacturers and resellers will have their name on their own web-site meets the limitation brought from the dependent claims into the independent claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-18, 25-27 and 34, 36, 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Call, as described above, in view of Tobin.

Call shows all of the limitations of the claims except for specifying unique identifying information, a label, on the manufacturer's and reseller's web-sites.

Tobin teaches a system for customizing marketing services on networks communicating with hypertext tagging conventions. Column 4, lines 57-60, disclose, "FIGS. 21C, 22-28, 29A-29B, and 30 show private label Web site pages that correlate to the PC Flowers & Gifts Web site pages depicted in FIGS. 1C-10 which are customized solely with the Homearts brand." This teaches unique identifying information on web-sites in order to promote branding.

Based on the teaching of Tobin, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to specify that the manufacturer's and reseller's web-sites in Call will have unique identifying information on web-sites in order to promote branding.

A claim map of claim 17 has been provided:

Claim 17

A method for enabling components of a supplier's website to be integrated into a website of a reseller, the method comprising:

enabling alternative functionality in the supplier's web site and in the reseller's website

From Call, supplier's web site, column 1, line 64, reseller's website, column1,line 57. For the 103 rejection, Tobin shows the supplier's web site "PC Flowers & Gifts" (figure 1C) and a reseller's website "HomeArts Flowers & Gifts" (figure 21C)

using at least one common module containing

From Call, the product translator in combination with the web site serves constitutes the amorphous "common module". From Tobin, column 10, lines 14-18, "Accordingly, all the server Web site pages accessed through the home page image map 2101 are anchored to PC Flowers & Gifts Web site pages that are dynamically created with fully customized graphic and text features according to Homearts' preferences." The server is considered to be the common module

a first set of information for incorporation into the supplier's website,

From Call, the name of the supplier's website is considered to be inherent on the website and is the first set of information. From Tobin, "PC Flowers & Gifts" (figure 1C) is the first set of information.

an alternative second set of information for incorporation into the reseller's website,

From Call, the name of the reseller's website is considered to be inherent on the website and is the second set of information. From Tobin, "HomeArts Flowers & Gifts" (figure 21C) is the second set of information.

Claim 17 continued

and a third set of common information for incorporation into both the supplier's and the reseller's website,

From Call, the shared product information, which is inherently on both the supplier's and the reseller's website. From Tobin, product items such as roses 103, baskets 104 and balloon 105 are common to both the supplier's web site "PC Flowers & Gifts" (figure 1C) and a reseller's website "HomeArts Flowers & Gifts" (figure 21C).

wherein the alternative functionality includes displaying identifying information unique to each of the supplier and the reseller,

From Call, the names of the supplier and the reseller are inherently displayed on their own websites and their names are unique. From Tobin, figures 1c and 21c shows that the names of the supplier and the reseller are displayed.

the first set of information including identifying information relating to a product supplied by the supplier and unique to the supplier, and

From Call, the name of a product supplier is "identifying information" and a product supplier is related to the product by a supply chain connection and the name of the supplier is unique to the supplier. From Tobin, "PC Flowers & Gifts" is "identifying information" and related to the product by name and supply chain connection.

the second set of information including identifying information relating to the product supplied by the supplier and unique to the reseller;

From Call, the name of a product reseller is "identifying information" and a product reseller is related to the product by a supply chain connection and the name of the reseller is unique to the reseller. From Tobin, "HomeArts Flowers & Gifts" is "identifying information" and related to the product by name and supply chain connection.

Claim 17 continued

enabling assignment of at least first and second addresses to the module, such that when the module is called in the supplier's website by the first address, the first and third sets of information are caused to be incorporated into the supplier's web site while the second set of information is prevented from being incorporated into the supplier's website, and

From Call, the URLs (addresses) for the supplier website and the reseller website are inherently different and each includes product information (3rd set) and their own name.

From Tobin, "PC Flowers & Gifts" shows a URL with www.pcflowers.com. The name is the first set of information and the product information is the third set. "HomeArts Flowers & Gifts" (second set) is not displayed on this website.

when the module is called in the reseller's web site by the second address, the second and third sets of information are caused to be incorporated into the reseller's website while the first set of information is prevented from being incorporated into the reseller's website

From Call, the URLs (addresses) for the supplier website and the reseller website are inherently different and each includes product information (3rd set) and their own name.

From Tobin, "HomeArts Flowers & Gifts" shows a URL with www.homearts.pcflowers.com (second address). The name is the first set of information and the product information is the third set. "PC Flowers & Gifts" (first set) is not displayed on this website.

and making the module available for use in constructing the supplier's and reseller's web sites, such that, using the same module, the supplier and the reseller web sites may incorporate common information while at the same time being customized.

This limitation is shown by the above disclosure.

(10) Response to Argument

The examiner believes that the 35 USC 103 rejection is much stronger and will address these arguments starting on page 24.

Applicant asserts that the prior art does not show “enabling alternative functionality” or “making the module available for use in constructing the supplier's and reseller's web sites...” The examiner does not concur. The examiner asserts that since the prior art shows the claimed functionality along with being a functioning website, it meets the metes and bound of “enabling alternative functionality”. As for making a module available for use to achieve the desired website look and functionality, the examiner asserts that, if the prior art website has the same look and functionality, the support hardware and software such as web servers and databases that construct the website can be considered the broad term of “a module available for use”. (As an aside, being available is not a positive step.)

From pages 25-29, applicant copies almost all of the claim limitations, but does not point out specific features missing. The examiner will rely on the claim map as a means of presenting each limitation.

Art Unit: 3627

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Michael Cuff/

Primary Examiner, Art Unit 3627

Conferees:

/F. Ryan Zeender/

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Vincent Millin /VM/

Appeals Practice Specialist